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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,695	10/23/2003	Niles Clark	144PA0102	6634
26882	7590	06/07/2007		
ROBERT R. WATERS, ESQ. WATERS LAW OFFICE, PLLC 633 SEVENTH STREET HUNTINGTON, WV 25701			EXAMINER HUYNH, KHOA D	
			ART UNIT	PAPER NUMBER
			3751	
			MAIL DATE	DELIVERY MODE
			06/07/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/691,695	CLARK, NILES	
	<b>Examiner</b>	<b>Art Unit</b>	
	Khoa D. Huynh	3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-7, 9-14, 16 and 18-41 is/are pending in the application.
- 4a) Of the above claim(s) 6, 7, 9-12, 18-26, 28-38 and 41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 13, 14, 16, 27, 39 and 40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 March 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 40 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation "wherein the retaining means the edge of the open end of the barrel of the syringe inserted into the guide" is unclear and ambiguous.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 13, 16 and 27, as presently understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Chanoch et al. (5542760).

Regarding claim 1, the Chanoch et al. reference discloses syringe filler.

The syringe filler includes a housing (100) having a vial compartment and a guide compartment mutually adjacent and concentric about an axial length, an articulated door (104) mounted to the housing wherein the door selectively movable between a closed position and an open position, a syringe guide (101,103) removable from the guide compartment, and the guide including an

aperture (about 11) traversing the axial length of the guide accommodating insertion of the syringe there through for guide communication with the vial.

Regarding claim 2, wherein the vial compartment inherently accommodates different sizes of the vials.

Regarding claim 3, wherein the guide includes means for retaining (Fig. 8) the syringe while the plunger is withdrawn from the syringe.

Regarding claims 13 and 16, wherein the door assists in retaining the vial and the guide within the housing.

Regarding claim 27, the method as claimed would be inherent during the normal use and operation of the Chanoch et al. device.

5. Claims 1-3, 39 and 40, as presently understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Wood et al. (6439276).

Regarding claim 1, the Wood et al. reference discloses syringe filler. The syringe filler includes a housing (10) having a vial compartment and a guide compartment mutually adjacent and concentric about an axial length, an articulated door (14) mounted to the housing wherein the door selectively movable between a closed position and an open position, a syringe guide (36) removable from the guide compartment, and the guide including an aperture (about 38) traversing the axial length of the guide accommodating insertion of the syringe there through for guide communication with the vial.

Regarding claim 2, wherein the vial compartment inherently accommodates different sizes of the vials.

Regarding claims 3, 39 and 40, wherein the guide includes means for retaining (Fig. 3) the syringe while the plunger is withdrawn from the syringe, wherein the retaining means engages tabs (at 50) on the open end of the barrel of the syringe inserted into the guide, wherein the retaining means the edge of the open end of the barrel of the syringe inserted into the guide.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 5 and 14, as presently understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Chanoch et al. (as discussed supra) in view of Tetreault (5247972).

Regarding claim 5, the Chanoch et al. reference DIFFERS in that the guide does not include transparent material as claimed. Attention, however, is directed to the Tetreault reference which discloses another apparatus for filling syringe. The apparatus includes a syringe guide (at 20) which is made of a clear plastic material to allow the user to view the syringe barrel (col. 3, lines 40-42). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Chanoch et al. reference by employing a transparent material for the guide, in view of the teaching of Tetreault, in order to allow the user to view the syringe barrel.

Regarding claim 14, the Chanoch et al. reference DIFFERS in that the door does not include a magnifier as claimed. Attention, however, is directed to the Tetreault reference which discloses another apparatus for filling syringe which includes a cover or door (14) operatively associated with the means for holding the bottle or vial. The cover or door (14) is a magnifying lens which has a magnifying feature to increase the visibility of the markings of the syringe. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Chanoch et al. reference by employing a magnifier for the door, in view of the teaching of Tetreault, in order to increase the visibility of the markings of the syringe.

***Response to Amendment***

8. Applicant's amendment, filed on 03/19/07, to the pending claims is insufficient to distinguish the claimed invention from the cited prior art or overcome the rejections as discussed above.

***Response to Arguments***

9. Applicant's arguments filed on 03/19/07 with respect to the pending claims have been fully considered. However, they are deemed not persuasive.

Applicant asserts that neither Tetreault nor Larrabee, separately or in combination, teaches a device comprising the elements and the arrangement of the elements as claimed in amended claim 1. See Remarks section, pages 16-21. Nevertheless, applicant's arguments with respect to the amended claims have been considered but are moot in view of the new ground(s) of rejection as discussed supra.

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**Conclusion**

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

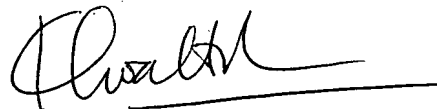
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (571) 272-4888. The examiner can normally be reached on M-F (7:00-3:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Khoa D. Huynh  
Primary Examiner  
Art Unit 3751

HK  
06/04/2007